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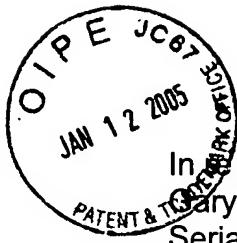
AP/3731/\$

PATENT

Attorney Docket No. 101.0042-05000

Customer No. 22882

JRW



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: ) Confirmation No.: 7210  
Sandy Karlin Michelson )  
Serial No.: 10/098,683 ) Group Art Unit: 3731  
Filed: March 15, 2002 ) Examiner: Uyen Ho  
For: SPINAL IMPLANT CONTAINING )  
BONE MORPHOGENETIC )  
PROTEIN )

Mail Stop AMENDMENT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**CERTIFICATE OF MAILING VIA U.S. EXPRESS MAIL**

Express Mail Mailing Label No. ED543093215US

Date of Deposit: January 11, 2005

I hereby certify that:

1. Information Disclosure Statement Under 37 C.F.R. 1.97(d) (\$180 IDS fee to be charged to Deposit Account No. 50-1066)
2. Form PTO-1449
3. Four (4) documents
4. Self-addressed return postcard receipt

are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service with sufficient postage under 37 C.F.R. § 1.10 on the date indicated above and are addressed to:

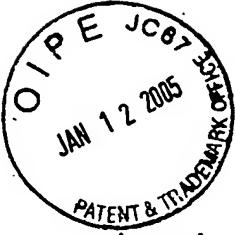
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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Date: January 11, 2005



Sandra L. Blackmon

1557 Lake O'Pines Street, NE  
Hartville, Ohio 44632  
Telephone: 330-877-0700  
Facsimile: 330-877-2030



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**INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97(d)**

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(d), applicant brings to the attention of the Examiner the documents listed on the attached PTO 1449. This Information Disclosure Statement is being filed after a Final Action and is accompanied by the required fee of \$180.00 (to be charged to Deposit Account No. 50-1066) and a certification as specified under § 1.97(e). Applicant respectfully requests that the Examiner consider the listed documents and indicate that they were considered by making appropriate notations on the attached form.

Each document listed in this Information Disclosure Statement was cited in a communication from the European Patent Office in a counterpart foreign application, and this Information Disclosure Statement is being filed within three months of the mailing date of that communication.

Copies of the listed documents are attached.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that each or all of the listed documents are material or constitute "prior art." If the Examiner applies any of the documents as prior art against any claims in the application and applicant determines

that the cited documents do not constitute "prior art" under United States law, applicant reserves the right to present to the office the relevant facts and law regarding the appropriate status of such documents.

Applicant further reserves the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents, should one or more of the documents be applied against the claims of the present application.

If there is any fee due in connection with the filing of this Statement, please charge the fee to our Deposit Account No. 50-1066.

Respectfully submitted,

MARTIN & FERRARO, LLP

Date: January 11, 2005

By: Thomas H. Martin

Thomas H. Martin  
Registration No. 34,383

1557 Lake O'Pines Street, NE  
Hartville, Ohio 44632  
Telephone: (330) 877-0700  
Facsimile: (330) 877-2030

Substitute for FORM PTO-1449		Attorney Docket Number 101.0042-05000	Customer No. 22882			
<b>INFORMATION DISCLOSURE CITATION IN AN APPLICATION</b>		Applicant Gary Karlin Michelson	Application Number 10/098,683			
(Use several sheets if necessary) Sheet <u>1</u> of <u>1</u>		Filing Date March 15, 2002	Group Art Unit 3731	Examiner Uyen Ho		
<b>U.S. PATENT DOCUMENTS</b>						
EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
<b>FOREIGN PATENT DOCUMENTS</b>						
	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION (YES/NO)
	0 356 112	2/1990	Europe			N/A
	0 421 485	2/1987	Europe			N/A
	WO 93/10725	6/1993	WIPO			N/A
<b>OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)</b>						
	European Search Report dated November 18, 2004 of European Application No. 04 02 5695.					
EXAMINER	DATE CONSIDERED					
EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP § 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to the applicant.						